

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

ASSOCIATION OF AMERICAN  
UNIVERSITIES, et al.,

Plaintiffs,

v.

NATIONAL SCIENCE FOUNDATION, et al.,

Defendants.

Case No. 25-cv-11231

**PLAINTIFFS' RESPONSE TO DEFENDANTS' NOTICE RE: STAY (DOC NO. 50)**

Plaintiffs welcome Defendants' confirmation that they will stay implementation of the NSF Policy Notice at issue in this case<sup>1</sup> through June 13, 2025, the date of the hearing on Plaintiffs' Motion for a Preliminary Injunction and Summary Judgment. *See* Doc No. 50. Plaintiffs understand that during this period, NSF will issue new awards to Institutions of Higher Education ("IHEs") at each IHE's negotiated indirect cost rate, rather than a "standard indirect cost rate not to exceed 15%" as contemplated by the NSF Policy Notice, and that IHEs will receive reimbursement at those negotiated indirect cost rates. While Defendants state that during this period they will include language in each new award noting that, should Defendants prevail in this case, "the [NSF Policy Notice] will apply from the date of the award," *id.* at 1–2, Plaintiffs reserve the right to challenge any future attempts to apply retroactively a 15% maximum indirect cost rate or any other aspect of the NSF Policy Notice. Plaintiffs further understand, based on Defendants' prior representations, that NSF will not reject outright any new proposals submitted to NSF at

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<sup>1</sup> U.S. National Science Foundation, *Policy Notice: Implementation of Standard 15% Indirect Cost Rate*, NSF 25-034 (May 2, 2025), <https://www.nsf.gov/policies/document/indirect-cost-rate> ("NSF Policy Notice").

negotiated indirect cost rates simply because they do not comply with the NSF Policy Notice.

With this understanding, Plaintiffs agree to proceed with the alternative schedule set forth in the Court's May 14 order, under which briefing on their Motion for a Preliminary Injunction and Summary Judgment and Defendants' Cross-Motion for Summary Judgment will be complete on June 10, 2025, and the Court will hold a hearing on June 13, 2025. Plaintiffs request that the Court enter a preliminary injunction on the record at the June 13 hearing if Defendants do not at that time agree to extend the stay until the Court issues its decision on Plaintiffs' Motion.

Dated: May 19, 2025

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By: /s/ Lindsay Harrison

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Respectfully submitted,

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grant Universities, and American Council on  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of May, 2025, I caused the foregoing to be electronically filed with the clerk of the court for the U.S. District Court for the District of Massachusetts, by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record, a true and correct copy of the foregoing instrument and all attachments.

/s/ Lindsay Harrison

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